

1 HONORABLE RONALD B. LEIGHTON
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10 UNITED STATES DISTRICT COURT
11 WESTERN DISTRICT OF WASHINGTON
12 AT TACOMA

13 CLAUDIA R.D. CLAVETTE, No. 12-cv-6027 RBL
14 v. Plaintiff, Order
15 SKAMANIA COUNTY SHERIFF, et al., [Dkts. #1, 2]
16 Defendants.

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18 **I. INTRODUCTION**

19 Before the Court is Plaintiff Claudia Clavette's application to proceed *in forma pauperis*.
20 [Dkt. #1] and application for appointment of counsel [Dkt. #2]. For the reasons set forth below,
21 the Court denies the applications.

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23 **II. DISCUSSION**

24 **A. Application to Proceed *In Forma Pauperis*.**

25 A district court may permit indigent litigants to proceed *in forma pauperis* upon
26 completion of a proper affidavit of indigency. *See* 28 U.S.C. § 1915(a). The court has broad
27 discretion in resolving the application, but "the privilege of proceeding *in forma pauperis* in civil
28 actions for damages should be sparingly granted." *Weller v. Dickson*, 314 F.2d 598, 600 (9th Cir. 1963), *cert. denied* 375 U.S. 845 (1963). Moreover, a court should "deny leave to proceed

in forma pauperis at the outset if it appears from the face of the proposed complaint that the action is frivolous or without merit.” *Tripati v. First Nat’l Bank & Trust*, 821 F.2d 1368, 1369 (9th Cir. 1987) (citations omitted); see also 28 U.S.C. § 1915(e)(2)(B)(i). An *in forma pauperis* complaint is frivolous if “it ha[s] no arguable substance in law or fact.” *Id.* (citing *Rizzo v. Dawson*, 778 F.2d 527, 529 (9th Cir. 1985); *Franklin v. Murphy*, 745 F.2d 1221, 1228 (9th Cir. 1984)).

Here, the Court must deny Plaintiff's application because Plaintiff appears to be legally barred. Plaintiff already brought a suit, later dismissed, arising under these facts. Under res judicata, "a final judgment on the merits of an action precludes the parties or their privies from relitigating issues that were or could have been raised in that action." *Allen v. McCurry*, 449 U.S. 90, 94 (1980). The claim is thus barred.

III. ORDER

For the reasons stated above, the Court **DENIES** the application to proceed *in forma pauperis* [Dkt. #1] and the application to appoint counsel [Dkt. #2]. Plaintiff has **15 days** to pay the filing fees or the case may be dismissed.

Dated this 11th day of January 2013.

Ronald B. Lighter

Ronald B. Leighton
United States District Judge